

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.86, and 476.87, the Utilities Board (Board) gives notice that on January 15, 2015, the Board issued an order in Docket No. RMU-2014-0004, In re: Disconnection of Public Water Utility Service for Failure to Pay Sewer, Wastewater, or Storm Drainage Bill [199 IAC Chapter 21], “Order Proposing Amendments to Implement Iowa Code § 476.20(1)(b),” in which the Board proposes amendments to the Board’s water service rules to implement the new statutory provisions in Iowa Code section 476.20(1)“b” that allow a public water utility to enter into an agreement with a city utility, city enterprise, combined city utility, or combined city enterprise to disconnect water service if an overdue debt is owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment.

In compliance with Executive Order 80, on August 11, 2014, the Board issued an order appointing members of a Stakeholder Group to provide recommendations to the Board regarding proposed rules to implement Iowa Code section 476.20(1)“b.” The Governor’s Office requested that the Board utilize the procedures established in Executive Order 80 in developing proposed rules to implement the new statute and appointment of the Stakeholder Group is required by the Executive Order. Notice of the formation of the Stakeholder Group was published in the Iowa Administrative Bulletin in IAB Vol. XXXVII, No. 1 (7/9/14), p. 25.

The members of the Stakeholder Group appointed by the Board are as follows: Julie Smith, Iowa Association of Municipal Utilities; Jeffrey K. Rosencrants, Iowa American Water Company (Ken Jones replaced Rosencrants as the Iowa American member); John Long, Consumer Advocate Division of the Iowa Department of Justice; Jim Odean, City of Davenport, Iowa; Jessica Kinser, City of Clinton, Iowa; Kristine Stone, City of Bettendorf, Iowa; and Don Tormey, Iowa Utilities Board.

In the August 11, 2014, order, the Board listed several issues for the Stakeholder Group to address related to establishment of customer protections when a customer’s water service may be disconnected pursuant to Iowa Code section 476.20(1)“b.” Stakeholder Group members, as well as members of the public, responded to the questions.

On September 4, 2014, the Stakeholder Group held a meeting by teleconference. At the meeting, Don Tormey was elected Chair of the Stakeholder Group, Larry Johnson of the Governor’s Office discussed the requirements of Executive Order 80, and distribution of information and a date for the next meeting were discussed. The Stakeholder Group decided that information would be distributed to the Stakeholder Group by electronic mail and Don Tormey would be the person responsible for collecting information from the Stakeholder Group and then disseminating information to the Stakeholder Group. The Stakeholder Group decided to have a public meeting in one of the cities served by Iowa American. After the teleconference, a public meeting was scheduled for October 29, 2014, in Davenport, Iowa.

The public meeting was held as scheduled. In addition to Stakeholder Group members, persons representing Clinton and persons representing Iowa American Water Company attended the meeting and made comments concerning the recommendations discussed by the Stakeholder Group. Based upon the comments from the members of the public and the members of the Stakeholder Group, recommendations that included three alternative rule proposals were provided to the Board on December 9, 2014. After reviewing the recommendations and considering the customer protections in the Board’s water service rules in Chapter 21, the Board is proposing the amendments described in this Notice.

The order approving this Notice of Intended Action, which addresses the recommendations of the Stakeholder Group, can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0004.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before February 24, 2015. The statement should be filed electronically through the Board's EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

The Board has scheduled an oral presentation to be held at the address listed above at 1 p.m. on March 12, 2015, to allow for further comments and for interested persons to respond to Board questions.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will have a beneficial effect on the ability of cities served by public water utilities regulated by the Board to recover debts owed for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment in an amount in excess of \$4 million.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.20(1)"b."

The following amendments are proposed.

ITEM 1. Amend subrule 21.4(7) as follows:

21.4(7) Refusal or disconnection of service. Service may be refused or discontinued only for the reasons listed in paragraphs "a" through "f" below. Unless otherwise stated, the customer shall be permitted at least 12 days, excluding Sundays and legal holidays, following mailing of notice of disconnect in which to take necessary action before service is discontinued. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.

a. Without notice in the event of an emergency.
b. Without notice in the event of tampering with the equipment furnished and owned by the utility or obtaining water by fraudulent means.
c. For violation of or noncompliance with the utility's rules on file with the board.
d. For failure of the customer to permit the utility reasonable access to its equipment.
e. For nonpayment of bill provided that the utility has: (1) made a reasonable attempt to effect collection; and (2) given the customer written notice that the customer has at least 12 days, excluding Sundays and legal holidays, in which to make settlement of the account. In the event there is dispute concerning a bill for water service, the utility may require the customer to pay a sum of money equal to the amount of the undisputed portion of the bill pending settlement and thereby avoid discontinuance of service for nonpayment of the disputed bill for up to 45 days after the rendering of the bill. The 45 days shall be extended by up to 60 days if requested of the utility by the board in the event the customer files a written complaint with the board.

~~f. When a prospective customer is refused service, the utility shall notify the prospective customer promptly of the reason for the refusal to serve and of the applicant's right to appeal the utility's decision to the board.~~

f. For failure to pay a debt owed to a city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment. Disconnection of water service pursuant to this paragraph shall only be allowed if the governing body of a city utility, city enterprise, combined city utility, or combined city enterprise has entered into a written agreement with the public water utility that includes provisions:

(1) Requiring that a notice of disconnection of water service for failure to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment be made by the public

water utility and allow the customer 12 days, excluding Sundays and legal holidays, after the mailing of the notice to take necessary action to satisfy the debt.

(2) Providing for prompt notice from the city utility, city enterprise, combined city utility, or combined city enterprise to the public water utility that the debt for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment has been satisfied and providing that, once notified of the payment of the debt, the public water utility shall reconnect water service to the customer as provided for in the public water utility's tariff.

(3) Requiring the city utility, city enterprise, combined city utility, or combined city enterprise, prior to contacting the public water utility for disconnection of water service to a customer, to have completed the disconnection notification procedures established in the tariffs or ordinances of the city utility, city enterprise, combined city utility, or combined city enterprise.

(4) Providing that the customer may be charged a fee for disconnection and reconnection of water service by the public water utility for failure of the customer to pay a debt owed to the city utility, city enterprise, combined city utility, or combined city enterprise for wastewater service or services of sewer systems, storm water drainage systems, or sewage treatment, that the fee be no greater than the rates or charges established for reconnection and disconnection of water service in the water utility's tariffs approved by the utilities board, and that recovery of lost revenue by the public water utility as a result of disconnection of water service pursuant to this paragraph is not authorized under these rules.

ITEM 2. Amend paragraph **21.4(9)“c”** as follows:

c. Failure to pay for a different type or class of public utility service. Disconnection of water service pursuant to the provisions of paragraph 21.4(7)“f” is not considered a different type or class of public utility service for purposes of subrule 21.4(9).